

REMARKS

The Advisory Action of March 10, 2010 and the final Office Action of November 3, 2009 has been carefully reviewed. Favorable reconsideration is requested in view of the foregoing amendments and the following remarks.

I. Claim Status and Amendments

Claims 1, 2, 5-12, 20-22, 27-31 and 35 were pending in this application when last examined and stand rejected.

The claims have been amended to address the formal matters raised in the Office Action. Support can be found throughout the general disclosure and the claims as filed. No new matter has been added. See also the relevant sections below for an explanation of the support in the disclosure for the above claim amendments.

II. Double Patenting Rejection

Claims 1, 2, 5-12, 20-22, 27-31, and 35 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10, 12-14, and 17-21 of US Patent No. 7,544,700 (from application serial No. 10/381,665 for reasons in item 2 on page 3 of the Advisory Action.

For the sole purpose of expediting prosecution and not to acquiesce to the rejection, Applicants have submitted herewith a terminal disclaimer signed by the undersigned to

remove this rejection. Thus, the rejection is untenable and should be withdrawn.

III. Indefiniteness Rejections

The Examiner maintained in part the rejections of the claims under 35 U.S.C. §112, second paragraph, as being indefinite for the reasons set forth in items 3g), h), l), t), u), x), bb), hh), ii), and nn) on pages 3-11 of the Advisory Action.

For the sole purpose of expediting prosecution and not to acquiesce to the rejections, Applicants have amended the claims to remove the objected compounds of items 3g), h), l), t), u), x), bb), hh), ii) and nn), thereby rendering the rejection moot. Withdrawal of the rejection is requested.

The Examiner maintained in part the rejections of the claims under 35 U.S.C. §112, second paragraph, as being indefinite for the reasons set forth in items 8d), j), and k) on pages 12-13 of the Advisory Action. This rejection is respectfully traversed as applied to the amended claims and for the following reasons.

In reply to item d), Applicants have amended claim 2 to remove the objected proviso clause. Since benzo[5,6]cyclohepta[1,2b]pyridine and benzo[5,6]cyclohept[3,4]ene[1,2b]pyridine are not embraced by R⁶, this noted proviso language is no longer needed.

In reply to item 8j) please note that the term "hydroxypiperidine" refers to a compound of Formula (I), wherein L¹ and L² are both H, and R⁶ is OH. These limitations are clearly disclosed in claim 1 and therefore, they provide proper antecedent basis for the corresponding species in claim 11.

In reply to item k), Applicants have removed the objected species (i.e., the 4th species on page 13 of the claim set filed March 3, 2010).

In view of the above, the claims, as amended herein, are believed to be clear, definite and have full antecedent basis. Thus, the rejections are untenable and should be withdrawn.

IV. Conclusion

Having addressed all the outstanding issues, the amendment is believed to be fully responsive to the Office Action. It is respectfully submitted that the claims are in condition for allowance and favorable action thereon is requested.

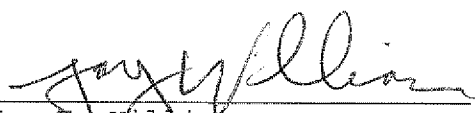
In the event that the Examiner maintains one or more of the rejections and given that the remaining rejections relate primarily to indefiniteness issues, Applicants would appreciate an opportunity to have an interview to discuss this case with the Examiner to expedite prosecution.

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If the Examiner has any comments or proposals for expediting prosecution, please contact the undersigned attorney at the telephone number below.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- a terminal disclaimer